

LPC Weekly Report

Friday, November 18 2021



**Highlights for LPCs:**

**November LPC Advisory Group Recording Available.** Did you miss the Monday, November 15 meeting and/ or want to go back and listen? You can access the [slides](#), [recording](#), and [notes](#) here. Coming up next: December's meeting will focus on Diversity, Equity and Inclusion. More details soon!

**Distribution of Phase 4 and ARP Rural Provider Relief Fund Payments Delayed:** HRSA updated its PRF website today noting that it will not begin distributing Phase 4 and American Rescue Plan (ARP) Rural payments until December 2021 and distributions will continue through January 2022. This reflects about a one month delay from their original goal, which was to begin ARP Rural distributions in late November. In addition, a bipartisan bill was introduced called the, "Provider Relief Fund Improvement Act." The [bill](#) seeks to extend the deadlines for providers to spend any received PRF dollars and would expand the uses of the dollars to include investments in workplace & safety measures. The bill does not appropriate additional PRF dollars. For more details, see this [article](#).

**Mortgage Costs Can Result in Healthcare Rationing.** New research released November 15 sheds light on a housing issue that likely impacts many more parts of the aging services continuum than affordable housing. The report gives us new data on the share of older adults holding a mortgage and the value of the debt those with mortgages after age 65 are holding. The Joint Center for Housing Studies of Harvard University research says that, between 1989 and 2016, the share of homeowners 65 and older with outstanding mortgages doubled, and the outstanding loan-to-value ratio, the amount of mortgage debt owed, tripled from 13 to 39%. Considering how much home equity dovetails with older adults' decisions and options for housing and services choices, all aging services providers should be aware that the trends of more people retiring with a mortgage and of those still-held mortgages values being higher than ever are clearly continuing. The research however takes this one step further and looks at prescription spending by older adults holding a mortgage by measuring health spending before and after a household paid off its mortgage. The researchers found households aged 50-64 spent nearly 50% more on out-of-pocket pharmaceuticals after paying off their mortgage. In contrast, households 65 or older did not significantly change their out-of-pocket spending on pharmaceuticals after they paid off their mortgages. The researchers posit Social Security and Medicare subsidies available to households around age 65 increased their ability to afford both health and housing. To reduce healthcare rationing by 50-64 year old people, the researchers recommend additional subsidies to reduce the cost of older adults' healthcare or housing, or to increase their income. Read the Joint Center's research [here](#).

**COVID-19 Related Updates:**

**Vaccine Mandates: New CMS and OSHA Rules: Virtual Update Recording Available.** On November 11, LeadingAge policy experts held a 90-minute briefing explaining the Interim Final

Rules by the Centers for Medicare and Medicaid Services (CMS) and the Occupational Safety and Health Administration (OSHA) mandating COVID-19 vaccinations for organizations with more than 100 staff and all staff in CMS-certified settings. Listen to the briefing and download the presentation materials here: [Vaccine Mandates: New CMS and OSHA Rules](#). Stay informed about vaccine mandate developments with the [latest information, tools, and resources](#).

#### Latest on the Legal Challenges to CMS IFR and OSHA ETS.

- *CMS Interim Final Rule Challenges (CMS IFR remains in effect)*: Florida has now filed a [lawsuit](#) challenging the CMS Interim Final Rule (IFR) mandating vaccinations for certain providers. There are now four lawsuits currently filed in federal courts, which are located in the Eastern District of Missouri, Western District of Louisiana, the Northern District of Texas, and Northern District of Florida, respectively. Unlike with the OSHA ETS, there are **no court orders** staying or providing relieve from the implementation and enforcement of the CMS IFR. The CMS IFR **remains in effect** unless and until we get a ruling from any of the courts hearing these challenges. The judge in the Louisiana case has ordered an expedited briefing schedule that requires the parties to file their briefs by December 1, 2021. We have not seen any of the other courts set a schedule to hear any motions yet, but that can change at any time. That is what we know at this point, but this will be a fluid situation for some time so stay tuned (and stay patient).
- *OSHA ETS Challenges (OSHA ETS stayed pending further decisions)*: The 6<sup>th</sup> Circuit Court of Appeals is the venue for all the legal challenges to the OSHA Emergency Temporary Standard (ETS). Yesterday, one of the plaintiffs challenging the OSHA ETS filed a motion to have the case heard *en banc*, which means by all the judges of the 6<sup>th</sup> Circuit Court of Appeals, rather than by a 3-judge panel that is usually randomly assigned to each case. The court ordered OSHA to respond to that petition by November 23<sup>rd</sup>. After that date, the court will decide whether to proceed with a full panel of judges or a 3-judge panel to hear the arguments on the merits of the challenges. Then, the court will set the timeline for the submission of briefs for each party and likely order an oral argument before issuing a decision. Given these developments, that likely puts any decision on the merits of the case at least two weeks out at the earliest. In the meantime, the 5<sup>th</sup> Circuit Court of Appeals order staying the implementation of the ETS remains in place. The stay **prohibits OSHA from implementing the ETS** until a further court decision. OSHA acknowledged such on their [website](#) this week and confirmed that they will not take any actions to implement or enforce the ETS until a further decision by the 6<sup>th</sup> Circuit Court of Appeals.

**“Wearing masks, regular vaccine boosters, and other precautions are likely to be our new normal.”** So said Dr. David Fairchild, Chief Medical Officer for MinuteClinic and Senior Vice President and Associate Chief Medical Officer for CVS Health, on the LeadingAge Coronavirus Update Call today. See this [article](#) for the whole interview, in which Dr. Fairchild talked about vaccines, hesitancy, boosters, and the safety of COVID vaccines for children.

#### FROM HHS:

1. **CDC Recommends Use of Johnson & Johnson’s Janssen COVID-19 Vaccine Resume**: The CDC has [updated their information on use of the Johnson & Johnson’s Janssen COVID-19](#). The CDC has updated frequently asked questions on the use of Johnson & Johnson’s Janssen COVID-19

2. **HHS Session on Fertility and Vaccines, mostly in Spanish.** The HHS COVID Community Corps will host a discussion about fertility and the COVID vaccines, primarily in Spanish on Thursday, November 18 at 7:00 PM ET at Tune in at [www.facebook.com/LaRedHispana](https://www.facebook.com/LaRedHispana).
3. **HHS Session on pandemic and vaccines in Indian Country.** Join Native Roots Radio and the We Can Do This campaign for the town hall where tribal leadership, community advocates, and health experts will talk about the COVID-19 pandemic in Indian Country and the available vaccines. Watch it live on Facebook at <https://bit.ly/KeepingtheCircleStrong> or on YouTube at <https://bit.ly/YTCircleStrong>.

### ***Advocacy Alerts and Hill News:***

**EWA Asks Congressional Leadership to Keep Older Adults Workforce Priorities in Reconciliation Package.** The Eldercare Workforce Alliance (EWA or Alliance), a coalition with whom LeadingAge works, sent a letter today to the Congressional leadership to applaud them for the historic investments in the care of older adults and the eldercare workforce within the Build Back Better Act. EWA is a coalition of 35 national organizations representing the interdisciplinary care team – older adults, family caregivers, direct care workers, long-term services and supports (LTSS) providers, and health care professionals – joined together to address the immediate and future crisis in caring for an aging America.

The Alliance also asked the Congressional leadership for continued support for investments in initiatives that make historic investments in the elder care workforce recruitment and retention, which includes: Medicaid’s coverage of HCBS services, the Nursing Home Worker Training Grants, the Health Profession Opportunity Grants, and the Older Americans Act HCBS initiatives that allow the aging network to support this workforce.

EWA also requested that the Build Back Better Act include funding for The National Family Caregiving Support Program, and the caregiving tax credit be included in the final package. Additionally, to close the geographic and demographic gaps in geriatrics workforce training, EWA request an increase in the funding for the Geriatrics Workforce Enhancement Program (GWEP) and Geriatrics Academic Career Awards (GACA), administered by the Health Resources Administration. The GWEPs and GACAs are the only federal programs that train geriatric health care providers. You can access the letter [here](#).

**Name-Only Screening Insufficient, Agency Says.** The Consumer Financial Protection Bureau recently released an opinion that consumer reporting agencies, used by housing owners and management companies to screen potential residents and employees, violate the law when they use name-matching procedures that lead to false-identity matching. The use of name-only matching procedures, when a consumer reporting company uses only first and last name to determine whether a particular item of information relates to a particular consumer, without using other personally identifying information such as address, date of birth, or Social Security number, fails to ensure maximum possible accuracy of consumer information, the CFPB says. In its opinion, the CFPB affirmed that the practice of matching consumer records solely through the matching of names is illegal under the Fair Credit Reporting Act. Hispanic, Black, and Asian rental applicants are at greater risk of denial because surnames of people from these communities tend to be less diverse than non-Hispanic whites. Housing members are urged to

check in with any screening services you use to ensure they are not matching consumer records only by first and last names. Read the CFPB's statement and link to its opinion [here](#).

***News from LeadingAge:***

**Member Profile: “Students are the Future of Senior Living”** Our workforce crisis isn’t only about retaining experienced frontline workers; it’s also about attracting the next generation of staff and demonstrating the great career options in long-term services and supports. [Here’s the story of one LeadingAge member](#) working with local high schools to give low-income students a promising start in our field, by offering CNA training, paid internships, mentoring, and meaningful jobs with a future.

**Annual Meeting Call for Sessions.** Have a great idea for a session that should be part of next year’s LeadingAge Annual Meeting + EXPO, happening Oct. 16-19, 2022 in Denver, CO? You can begin submitting proposals now! Learn more, get answers to common questions, and complete your submission [here](#).